

Exhibit A

AMENDED EXHIBIT 35

MAO DECLARATION OPPOSITION TO SUMMARY JUDGMENT

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

CHASOM BROWN, WILLIAM BYATT,)
JEREMY DAVIS, CHRISTOPHER)
CASTILLO, and MONIQUE)
TRUJILLO, individually and on)
behalf of all similarly)
situated,)
)
Plaintiffs,)
)
vs.) Case
) 4:20-cv-03664-YGR-SVK
GOOGLE LLC,)
)
Defendant.)
_____)

VIDEO-RECORDED DEPOSITION OF
BLAKE LEMOINE
Thursday, December 21, 2023
Volume I

Reported by:
CARLA SOARES
CSR No. 5908
Job No. 6377402
Pages 1 - 232

1 ability to become greater as a civilization, have 10:23:27
2 involved some form of analytics.

3 Whether that was the Farmers' Almanac or
4 the sextant, we have always used analytics to be
5 more capable at doing what we need to do as humans. 10:23:39
6 And AI is the motherload of analytics.

7 Q Well, along those lines, you say, at line
8 8 here in paragraph 12, "In my experience, Google's
9 algorithms, machine learning, and artificial
10 intelligence are still able to reidentify the same 10:24:00
11 persons and devices, even if the end users decided
12 to use private-mode web browsing."

13 Did you ever achieve that yourself while
14 you were at Google? That is, did you reidentify a
15 person and device using algorithms and AI even if 10:24:22
16 the -- when an end user had chosen to use
17 private-mode web browsing?

18 A In 2017 and 2018, I was doing analytics
19 and research on the AI systems at Google with
20 respect to privacy. This was in connection with my 10:24:46
21 GDPR work.

22 In the course of that work, I ran several
23 experiments that were intended to demonstrate that
24 information which Google had removed from
25 non-personalized logs or signed-out logs or 10:25:05

1 unauthenticated logs, or whatever you want to call 10:25:08
2 the logs, that information which has been occluded,
3 intentionally left out of the logs in order to
4 maintain the user's privacy, can be inferred by the
5 AI and be acted upon by the AI and have Google's 10:25:24
6 content-serving behaviors be affected by those
7 characteristics of the user which had been
8 intentionally excluded from the non-personalized
9 logs.

10 And in aggregate, my conclusion was that 10:25:42
11 the AI functionally reidentified users who we had
12 claimed were anonymized.

13 Q So my question, again, is, did you ever do
14 that with regard to a specific person using
15 private-mode web browsing? 10:26:03

16 MR. LEE: Asked and answered.

17 You can answer again.

18 THE WITNESS: I ran experiments on the
19 population of Google's users in order to demonstrate
20 that they could be reidentified using AI at Google. 10:26:14

21 BY MR. SCHAPIRO:

22 Q And you documented that -- those
23 experiments in some reports and some documents,
24 correct?

25 A Yes, I did. 10:26:26

1 for themselves. So Google gives them a handful of 15:28:37
2 toggles to make them feel like they have control,
3 and then gives them the one product that the Google
4 engineers think is the actually good one.

5 Q Doesn't -- doesn't Google have concern 15:28:52
6 that violating users' privacy in this way opens them
7 up to scrutiny from regulators or subject to
8 lawsuits like this one?

9 A Cost of doing business. Fines are simply
10 another line on the expense report. 15:29:06

11 MR. LEE: I'm not done yet, but I think we
12 should take a quick break and go off the record.

13 MR. SCHAPIRO: Okay.

14 THE VIDEO OPERATOR: This marks the end of
15 Media Unit 4. We are going off the record. The 15:29:20
16 time is 3:29 p.m.

17 (Recess, 3:29 p.m. - 3:46 p.m.)

18 THE VIDEO OPERATOR: This marks the
19 beginning of Media No. 5. We're going back on the
20 record. The time is 3:46 p.m. 15:46:12

21 BY MR. LEE:

22 Q Welcome back, Mr. Lemoine. Just us a
23 couple more questions. Okay?

24 A Okay.

25 Q Mr. Lemoine, do you remember a Google 15:46:22

1 account privacy control called "Web and App 15:46:26
2 Activity"?

3 A Yes, I do. In fact, the non-personalized
4 logs I was talking about earlier for the Google
5 Search app primarily are associated with people who 15:46:38
6 have turned "Web and App Activity" settings off.

7 Q And when people have turned the "Web and
8 App Activity" setting off, is the data that's
9 collected when it's off considered logged-out or
10 signed-out data? 15:46:57

11 A So a lot of times today, both legal teams
12 have been using words which are not technical
13 synonyms as if they are technical synonyms.
14 "Unauthenticated," "logged out," "non-personalized"
15 and "anonymized" all mean different technical 15:47:15
16 things. So I just want to clarify.

17 Which specific variety of those are you
18 asking about?

19 Q Let me ask it a little more pointedly,
20 then. 15:47:26

21 Your premortem study refers to a problem
22 or a concern regarding logged-in data leaking into
23 logged-out data or vice versa.

24 Do you recall that?

25 A I mean, primarily it's the other way that 15:47:36

1 we care about more, but yes. Either way is 15:47:38
2 possible.
3 Q Right.
4 So did your premortem study that expressed
5 concern about that type of leakage also apply to 15:47:46
6 WAA-off data.
7 A Yes.
8 Q And does WAA-off data get used by Google's
9 AI?
10 A Yes. 15:48:06
11 Q Okay. Back to the topic at hand, and then
12 I think we're at the home stretch.
13 There was some discussion today that you
14 had with Google's attorney about Google's AI chatbot
15 called "LaMDA." 15:48:25
16 Do you remember that?
17 A Yes, I do.
18 Q And just briefly, what is LaMDA?
19 A LaMDA is a very complex artificial
20 intelligence system that ultimately provides a 15:48:32
21 natural language interface to all of Google's
22 products simultaneously.
23 MR. LEE: I'm going to ask Josh to mark
24 the next exhibit, Exhibit 26.
25 /// 15:48:53

1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, do hereby
3 certify:

4 That the foregoing proceedings were taken
5 before me at the time and place herein set forth;
6 that any witnesses in the foregoing proceedings,
7 prior to testifying, were administered an oath; that
8 a record of the proceedings was made by me using
9 machine shorthand which was thereafter transcribed
10 under my direction; that the foregoing transcript is
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to
13 the original transcript of a deposition in a Federal
14 Case, before completion of the proceedings, review
15 of the transcript [] was [X] was not requested.

16 I further certify I am neither financially
17 interested in the action nor a relative or employee
18 of any attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date
20 subscribed my name.

21 Dated: DECEMBER 22, 2023

22
23 Carla Soares
24

CARLA SOARES

25 CSR No. 5908